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Attorneys for Defendant ON-SITE MANAGER, INC.

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

MICHAEL JOHNSON,

Plaintiff,

vs.

ON-SITE MANAGER, INC.,

Defendant.

Case No.: 5:15-CV-04409-BLF

**DECLARATION OF MICHAEL J.  
SALTZ, ESQ. IN SUPPORT OF  
DEFENDANT ON-SITE MANAGER,  
INC.'S OPPOSITION TO  
PLAINTIFF'S MOTION TO  
EXCLUDE EXPERT TESTIMONY  
OF REBECCA E. KUEHN**

Complaint filed: September 23, 2015  
Trial Date: January 8, 2018

**DECLARATION OF MICHAEL J. SALTZ**

I, Michael J. Saltz, do declare:

1. I am over the age of eighteen, a partner with Jacobson, Russell, Saltz, Nassim & de la Torre, LLP and counsel of record for On-Site Manager, Inc. ("On-Site"), a Defendant in the above-captioned matter. If called upon to do so, I could and would competently testify as to the contents of this declaration based upon my personal, first-hand knowledge.

2. Defendant both designated its expert and produced the subject report as required under this Court's schedule of deadlines. [See Docket No. ("DN") 27]. In that

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1 report, designated expert witness Rebecca E. Kuehn disclosed all documents that she  
 2 relied upon in drafting her report.

3 3. As of May 21, 2017, Plaintiff was served with Mrs. Kuehn's report, as  
 4 well as a disclosure of the documents relied upon.

5 4. Expert discovery in this case did not conclude until June 5, 2017.

6 5. In this case, Mrs. Kuehn fully disclosed every single document that she  
 7 relied upon when drafting the Report. This disclosure was timely under this Court's  
 8 ordered case management deadlines. [See DN 27]. As there is no requirement that the  
 9 expert "**produce**" those documents with the report, only to "**disclose,**" it was  
 10 incumbent upon Plaintiff to request those documents, either through a subpoena to the  
 11 expert under FRCP Rule 45 or by way of a production request to Defendant under  
 12 FRCP Rule 34(c). Plaintiff did neither, and did not even make an informal request of  
 13 Defendant's counsel to produce those documents.

14 6. Instead, despite having notice of those documents, and time within which  
 15 to request them, Plaintiff neither designated his own expert to rebut Defendant's  
 16 expert, did not seek to depose Defendant's expert, and never even requested the  
 17 documents relied upon by Defendant's expert. Plaintiff simply refused to do any  
 18 further work on this case within the discovery timeframe.

19  
 20 I declare under the penalty of perjury of the United States of America that the  
 21 foregoing information is true and correct.

22  
 23  
 24 Dated: August 3, 2017

25 /s/ Michael J. Saltz

26 Michael J. Saltz